

**Amendments to the Claims**

Please cancel Claims 27-31. The Claim Listing below will replace all prior versions of the claims in the application:

**Claim Listing**

What is claimed is:

1. (Previously Presented) In a system for transmitting audio over a data network; and  
wherein received data packets are stored in a jitter buffer in a receiver and read from the jitter buffer at a rate dependent on a jitter buffer latency, which can be modified during periods of quasi silence, an apparatus for determining if a data packet contains non speech audio or speech audio; and  
wherein audio received as a data stream is transmitted in one or more transmitted data packets, comprising:  
a non speech detection module, which determines whether the received data stream contains non speech audio or speech audio;  
an add header routine, which stores a first non speech identifier with the audio in a transmitted data packet, the first non speech identifier being stored in a header in the transmitted data packet; and  
a remove header routine, which detects the state of a second non speech identifier in the header of a received data packet to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.
2. (Previously Presented) The apparatus as claimed in Claim 1 wherein the non speech identifier is a one bit field included in the header in the data packet.
3. (Previously Presented) The apparatus as claimed in Claim 2 wherein the non speech identifier is stored in a Real time Transport Protocol header.

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